



## CITY OF LODI COUNCIL COMMUNICATION

**AGENDA TITLE:** Adopt Resolution Authorizing the City Manager to Enter into a Reimbursement Agreement Between the City of Lodi and Holz Rubber Company for Utility Service and Transformer Upgrade Project and Approve Specifications and Authorize Advertisement of Bids to Procure Padmount Transformer (\$98,100)

**MEETING DATE:** July 10, 2012

**PREPARED BY:** Electric Utility Director

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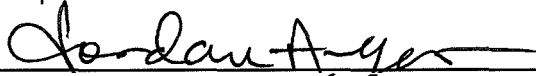
**RECOMMENDED ACTION:** Adopt a resolution authorizing the City Manager to enter into a Reimbursement Agreement between the City of Lodi and Holz Rubber Company for utility service and transformer upgrade project, at an estimated cost of \$98,100, and approve specifications and authorize advertisement of bids to procure padmount transformer.

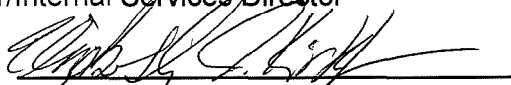
**BACKGROUND INFORMATION:** Holz Rubber Company (HR) will be expanding its business; as a result, HR will be installing nine pieces of manufacturing equipment. In order to provide sufficient electric power to this equipment, HR needs to upgrade a portion of its electric infrastructure at its plant located in the 1100 and 1200 blocks of South Sacramento Street. As part of its utility service upgrade HR must also purchase and install a new 1,500kVA transformer. To facilitate this project HR has requested that the City of Lodi Electric Utility Department (EUD) purchase and install all required utility-related materials, including the transformer.

As outlined in the attached Reimbursement Agreement, HR will pay \$20,000 prior to the start of this project, and then reimburse the utility over the next 24 months (in equal monthly payment installments), until the full amount is repaid. Actual costs will be true-up in accordance with the EUD Rules and Regulations.

**FISCAL IMPACT:** Additional revenue resulting from increased sales is unknown at this time.

**FUNDING:** Funding is available in FY2012/13 EUD Budget Account Number 160650; loan to be repaid to this account.

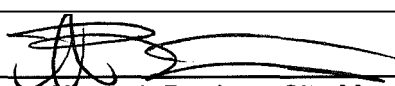
  
Jordan Ayers  
Deputy City Manager/Internal Services Director

  
Elizabeth A. Kirkley  
Electric Utility Director

**PREPARED BY:** Rob Lechner, Manager, Customer Service & Programs  
EK/RSL/lt

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**APPROVED:**

  
Konrad Bartlam, City Manager

# REIMBURSEMENT AGREEMENT

## UTILITY SERVICE AND TRANSFORMER UPGRADE PROJECT

This Reimbursement Agreement ("Agreement") is made as of the \_\_\_\_ day of July, 2012, by and between the City of Lodi, a California municipal corporation ("City") and Holz Rubber Company, Inc., a California corporation ("Holz").

### Recitals

1. To accommodate Holz's demand for increased electricity, City agrees to purchase and install designated utility materials (more fully described in Attachment A hereto), and a 1,500 kVA transformer, as part of a utility service and transformer upgrade project benefiting the Holz facilities located in the 1100 and 1200 blocks of South Sacramento Street, Lodi, San Joaquin County, California (the "Project").
2. Holz agrees to reimburse City for all costs associated with the Project pursuant to terms and conditions set forth below.
3. Holz further agrees that following completion of the Project, Holz will own the equipment comprising the Project and further agrees that Holz is responsible for all future maintenance, repair and replacement of the same.

### Witnesseth

WHEREFORE, in consideration of the foregoing, and other good and valuable consideration, the receipt of which of hereby acknowledged, the parties hereby agree as follows:

1. The total estimated purchase price of the utility materials described in Attachment A is the amount of \$98,100. Because this is an estimated cost, the City will "true-up" the actual cost upon the completion of the Project and provide Holz with an invoice itemizing, all materials, equipment and labor costs incurred by City concerning the Project.
2. In the event that the labor required to perform the Project occurs after City of Lodi Electric Utility Department operating hours (7:00am to 4:30pm, Monday through Friday, excluding holidays and weekends), Holz will be charged any/all additional labor costs over and above the costs identified on Attachment A.
3. Upon execution of this Agreement Holz will pay the City an initial payment in the amount of \$20,000.
4. The balance due and owing by Holz to City for the Project (as set forth in an invoice delivered to Holtz on completion of the Project) will be payable to City in equal monthly installments over a period of twenty-four (24) consecutive months until the balance is paid in full. The first monthly payment will be due and payable by Holz 60-days

following completion of the Project. Thereafter, Holz will make monthly payments to City, no later than the 20<sup>th</sup> day of each month thereafter.

5. The failure of Holz to pay, in full, any payment required under this Agreement when due following written notice by City to Holz of such failure and ten (10) days opportunity to cure, shall constitute an event of default under this Agreement.

(a) Upon occurrence of such an event of default, the entire unpaid balance due under this Agreement shall at the option to the City become immediately due and payable upon written notice to Holz without further demand by City.

(b) The failure of City to exercise the remedy set forth above or any other remedy provided by law upon the occurrence of one or more of the foregoing events of default shall not constitute a waiver of the right of City to exercise any remedy at any subsequent time in respect to the same or any other default. The acceptance by City of any payment which is less than the total amounts due and payable at the time of such payment shall not constitute a waiver of the right to exercise any of the foregoing remedies or options at that time or at any subsequent time, or nullify any prior exercise of any such remedy or option, without the express written consent of City, except as to the extent otherwise provided by law.

(c) Holz agrees to pay all costs and expenses, including reasonable attorney's fees and any other professional service fees or costs, incurred by City in the event of default, regardless of whether suit is filed to seek enforcement under this Agreement.

6. The provisions of this Agreement are not intended to create, nor shall they in any way be interpreted to create a joint venture, a partnership, or any other similar relationship between the parties.

7. All notices required by this Agreement shall be in writing and delivered in person or sent by certified mail, postage prepaid, as follows:

To City:

Elizabeth Kirkley, Electric Utility Director  
City of Lodi  
1331 South Ham Lane  
Lodi, CA 95242

To Holz:

Holz Rubber Company, Inc.  
1129 South Sacramento Street  
Lodi, CA 95240

8. No modification of this Agreement shall be valid unless said modification is in writing and signed by both parties.

9. This Agreement shall be governed by the laws of the State of California. Jurisdiction of litigation arising from this Agreement shall be venued with the San Joaquin County Superior Court. If any part of this Agreement is found to conflict with applicable laws, such part shall be inoperative, null, and void insofar as it is in conflict with said laws, but the remainder of this Agreement shall be in force and effect. In the event any dispute between the parties arises under or regarding this Agreement, the prevailing party in any litigation of the dispute shall be entitled to reasonable attorney's fees from the party who does not prevail as determined by the San Joaquin County Superior Court.

10. This Agreement represents the entire understanding of City and Holz as to those matters contained herein. No prior oral or written understanding shall be of any force or effect with respect to those matters covered hereunder. This Agreement may not be modified or altered except in writing, signed by both parties.

IN WITNESS HEREOF, the parties hereto have entered into this Agreement effective as of the date set forth hereinabove.

HOLZ RUBBER COMPANY, INC.  
a California corporation

CITY OF LODI,  
a California municipal corporation

By: 

Name:

Title: President

By: \_\_\_\_\_

Konradt Bartlam  
City Manager

ATTEST:

\_\_\_\_\_  
RANDI JOHL, City Clerk

APPROVED AS TO FORM:

D. STEPHEN SCHWABAUER, City Attorney  
JANICE D. MAGDICH, Deputy City Attorney

By: 

## **ATTACHMENT 'A': Holz Rubber Utility Service & Transformer Upgrade Project**

### **I. The project includes:**

- One transformer of 12/0.480/0.277kV (1,500 kVA transformer), three phase 4-wire system
- Distribution Pole relocation
- 12kV riser cable and cut out switch arrangement
- Pulling of Low Voltage cable from the transformer to the expected distribution panel

### **II. The project cost estimate includes:**

- Price for one (1) 1500kVA, 12/0.48/0.277 kV, 60Hz transformer,
- Installation of transformer and low voltage conductors (cables and conductors), and accessories
- Relocation of one (1) 12kV pole
- Purchase and installation of one (1) 12kV riser cable and cut out switch
- Administrative costs (including engineering and technical support staff)

### **III. The project cost estimate does *not* include the following:**

- the distribution panel
- electrical design and electrical Installation to the customer's new processing equipment
- design and installation of one (1) transformer pad
- layout of underground conduit and restoration of the property in or adjacent to the project

### **Estimated Project Cost:**

|   |                    |
|---|--------------------|
| 1. transformer cost                     | \$27,500.00        |
| 2. transformer installation             | \$ 1,200.00        |
| 3. underground material                 | \$12,500.00        |
| 4. installation of underground material | \$ 9,600.00        |
| 5. overhead material                    | \$ 1,520.00        |
| 6. installation of overhead material    | \$ 4,325.00        |
| 7. overhead costs                       | \$ 9,835.00        |
| 8. equipment                            | \$ 3,000.00        |
| 9. administrative costs                 | \$ 5,000.00        |
| 10. other unknown costs                 | \$ 4,000.00        |
| 11. sub-total                           | \$78,480.00        |
| 12. 25% Contingency                     | <u>\$19,620.00</u> |

**Total** **\$98,100.00**

RESOLUTION NO. 2012-108

A RESOLUTION OF THE LODI CITY COUNCIL AUTHORIZING  
THE CITY MANAGER TO ENTER INTO A REIMBURSEMENT  
AGREEMENT BETWEEN THE CITY OF LODI AND HOLZ RUBBER  
COMPANY FOR UTILITY SERVICE AND TRANSFORMER  
UPGRADE PROJECT

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WHEREAS, Holz Rubber Company (HR) will be expanding its business; as a result, HR will be installing nine pieces of manufacturing equipment; and

WHEREAS, in order to provide sufficient electric power to this equipment, HR needs to upgrade a portion of its electric infrastructure at its plant located in the 1100 and 1200 blocks of South Sacramento Street; and

WHEREAS, as part of its utility service upgrade, HR must also purchase and install a new 1,500 kVA transformer; and

WHEREAS, to facilitate this project, HR has requested that the City of Lodi Electric Utility Department (EUD) purchase and install all required utility-related materials, including said transformer; and

WHEREAS, as outlined in the Reimbursement Agreement, HR will pay \$20,000 prior to the start of this project and then reimburse the utility over the next 24 months (in equal monthly payment installments) until the full amount is repaid with actual costs being true-up in accordance with the EUD Rules and Regulations; and

WHEREAS, additional revenue resulting from increased sales is unknown at this time; and

WHEREAS, funding is available in FY2012/13 EUD Budget Account Number 160650, the loan to be repaid to this account.

NOW, THEREFORE, BE IT RESOLVED that the Lodi City Council does hereby authorize the City Manager to enter into a Reimbursement Agreement between the City of Lodi and Holz Rubber Company for a utility service and transformer upgrade project at an estimated cost of \$98,100, which will be true-up to actual costs at the completion of the project.

Dated: July 10, 2012

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I hereby certify that Resolution No. 2012-108 was passed and adopted by the City Council of the City of Lodi in a special meeting held July 10, 2012, by the following vote:

AYES: COUNCIL MEMBERS – Hansen, Johnson, Katzakian, Nakanishi, and Mayor Mounce

NOES: COUNCIL MEMBERS – None

ABSENT: COUNCIL MEMBERS – None

ABSTAIN: COUNCIL MEMBERS – None

  
RANDI JOHL  
City Clerk